

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

v.

Case No. 07-CV-12193-DT

WILLIAM SIM SPENCER,

Defendant.

**OPINION AND ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S
"MOTION FOR EMERGENCY TEMPORARY RESTRAINING ORDER AND
EMERGENCY SUSPENSION OF LOCAL RULES" AND DENYING
PLAINTIFF'S MOTION TO PROCEED *IN FORMA PAUPERIS***

On May 21, 2007, William Sim Spencer, a prisoner in the custody of the Michigan Department of Corrections, filed a "Notice of Removal of Action – Counterclaim," which the court construed as a civil rights complaint under 42 U.S.C. § 1983. Spencer also sought to proceed *in forma pauperis*. Because Spencer had previously filed more than three civil rights complaints that were dismissed as frivolous, the court denied his request to proceed *in forma pauperis* and dismissed the complaint pursuant to 28 U.S.C. § 1915(g). Spencer has now filed a June 8, 2007 "Motion for Emergency Temporary Restraining Order and Emergency Suspension of Local Rules" and "Motion to Proceed *In Forma Pauperis*."

In his motion for a temporary restraining order, Spencer first asks the court to suspend the local rule requiring that a motion be accompanied by a brief. See E.D. Mich. LR 7.1(c). Eastern District of Michigan Local Rule 1.2 provides that "[f]or good cause shown . . . any Judge of this Court may temporarily suspend the operation of the

Rules." Spencer asserts that his limited access to a law library, typewriter and pen make it difficult for him to complete a brief in support of his motion. The court grants this request and considers the motion even though not accompanied by a brief.

Second, Spencer asks the court to enjoin the Oakland County Circuit Court from executing a judgment of sentence against Spencer during the pendency of this civil rights action. In deciding whether to grant injunctive relief, a court must consider, among other factors, whether the movant has shown a strong or substantial likelihood of success on the merits. *Rock and Roll Hall of Fame v. Gentile Prods.*, 134 F.3d 749, 754 (6th Cir. 1998). Because Spencer's complaint has been dismissed, he has no likelihood of success and injunctive relief is not warranted.

Spencer has also filed a motion to proceed *in forma pauperis*. In the court's May 3, 2007 order, the court denied Spencer's previously-filed motion to proceed *in forma pauperis*. For the reasons set forth in that order, the court denies Spencer's current request to proceed *in forma pauperis*. Accordingly,

IT IS ORDERED that Plaintiff's "Motion for Emergency Temporary Restraining Order and Emergency Suspension of Local Rules" [Dkt. # 5] is GRANTED IN PART AND DENIED IN PART. Specifically, it is GRANTED in that Local Rule 7.1(c) is suspended to allow consideration of the motion without an accompanying brief and it is DENIED in all other respects.

IT IS FURTHER ORDERED that Plaintiff's "Motion to Proceed *In Forma Pauperis*" [Dkt. # 6] is DENIED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 23, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 23, 2007, by electronic and/or ordinary mail.

s/Lisa G. Wagner

Case Manager and Deputy Clerk
(313) 234-5522